



STATE OF OKLAHOMA
OFFICE OF STATE FINANCE

VIA ELECTRONIC FILING

August 17, 2010

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

**Re: Request for Conditional Waiver to Allow
The State Of Oklahoma to Participate In The
Establishment of 700 MHz Interoperable Public
Safety Wireless Broadband Network**

EXPEDITED REQUEST FOR WAIVER

Dear Ms. Dortch:

The State of Oklahoma notes that the 21 Petitions for Waiver referenced within the Commission's decision within In the Matter of Requests for Waiver of Various Petitioners to Allow the Establishment of 700 MHz Interoperable Public Safety Wireless Broadband Networks, *Order*, PS Docket No. 06-229, FCC 10-79 (released May 12, 2010) ("*Order*") were made the subject of an earlier Public Notice, seeking comments from the public, referred to within the *Order* as the "*Waiver PN*." See *Order* at ¶7. The *Order* is silent as to the procedural treatment of subsequent requests for waiver to deploy 700 MHz public safety networks by other interested public safety entities. For the reasons stated herein, the State of Oklahoma respectfully requests that public safety entities seeking similar conditional waiver not be subjected to public comment, including the associated waiver request submitted by the State of Oklahoma.

The Commission's *Waiver PN* was fully understandable and the comments received by that process were invaluable in determining the course and conditions that ultimately were mandated within the *Order*, to assist public safety entities in rapid deployment of 700 MHz networks. Accordingly, the Commission's use of discretion to gather public comments at that time were necessary and advisable. However, the matters to be considered pursuant to the *Waiver PN* have been decided by virtue of the *Order* and further comments to each individual waiver request would not forward the primary objectives of the *Order*.

The State of Oklahoma further notes that among the 21 Petitioners referenced in the *Order*, a number of those Petitioners filed their waiver requests after the *Waiver PN* was released². Accordingly, it appears that those requests were not specifically subject to public comment, but rather were treated as portion of the earlier batch of petitions received and referenced within the *Waiver PN*. Therefore, the State of Oklahoma request is to obtain treatment of equal to those petitions that were received following the publication of the *Waiver PN*, i.e. to have its request for waiver processed by the Bureau with the need to seek public notice and comment.

¹ Public Safety and Homeland Security Bureau Seeks Comment on Petitions for Waiver to Deploy 700 MHz Public Safety Broadband Networks, DA 09-1819 (rel. August 14, 2009).

²*Order* at fn. 14.

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Secretary, Federal Communications Commission

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This request is consistent with the Commission's findings in the *Order*, that stated "we expect the Bureau will be able to act on future waiver requests quickly..." *Order* at 11 68. Such expectation cannot be met if each waiver request is subject to public notice and comment. Rather, the delay from a public notice comment procedure would severely impair the petitioners' ability to seek available financing sources during the comment period when uncertainty would exist.

The State of Oklahoma recognizes that public notice and comment may still be appropriate if a petitioner's requests relief that is not already generally extended under the *Order* or for which the PSHSB has not obtained delegated authority from the Commission. However, if a petitioner's request is fully consistent with the *Order*, like the State of Oklahoma's, there is no need for public notice and comment.

Therefore, for the foregoing reasons and in an abundance of caution, the State of Oklahoma request that its waiver request not be subject to public notice and comment and that the processing of the request be performed expeditiously by the Bureau.

Respectfully submitted,



Alex Z. Pettit
Chief Information Officer
State of Oklahoma

Attachment:

Expedited Request for Waiver

cc: Admiral James A. Barnett, Jr. (Ret) (with attachment)

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Request by the State of Oklahoma for Waiver of)	PS Docket No. 06-229
the Commission's Rules to Deploy a 700 MHz)	
Public Safety Interoperable Broadband Network)	
That Can Be Integrated into the Public-Private)	
Partnership)	

EXPEDITED REQUEST FOR WAIVER

Pursuant to Section 1.925(b) of the Commission's rules, the State of Oklahoma respectfully requests that the Federal Communications Commission ("FCC/Commission") grant a waiver of its 700 MHz public safety early deployment rules to enable the construction and operation of a 700 MHz interoperable public safety broadband network. The requested waiver is consistent with the 21 public safety petitions granted by the Commission in its recent *Waiver Order*¹ that allows for early deployment of public safety broadband networks in the 700 MHz Band Class 14. Thus, the requested waiver will serve the public interest by improving communications for first responders today without sacrificing any of the policy goals the Commission is seeking to achieve in its 700 MHz rulemaking.

¹ See Requests for Waiver of Various Petitioners to Allow the Establishment of 700 MHz Interoperable Public Safety Wireless Broadband Networks, PS Docket 06-229, *Order*, FCC 10-xx (rel. May 12, 2010) ("*Waiver Order*") (granting waivers for: Adams County, CO, Alabama, Boston, MA, Northern California Consortium (Oakland, San Francisco, and San Jose), Charlotte, NC, Chesapeake, VA, District of Columbia, Hawaii and Counties of Maui, Hawaii, Kauai, and City and County of Honolulu, Iowa, Los Angeles County, Mesa, AZ and TOPAZ Regional Wireless Cooperative Mississippi, New Jersey, New Mexico, New York City, New York State, Oregon, Pembroke Pines, FL, San Antonio, TX, Seattle, WA, Wisconsin Consortium (Calumet, Outagamie and Winnebago Counties)).

The State of Oklahoma has identified public safety interoperable broadband services as a priority and is prepared to make the capital investment necessary to deploy a network as quickly as possible in the 700 MHz public safety broadband spectrum. As demonstrated below, our stand-alone network will meet the technical specifications the FCC has proposed in the *Waiver Order* and can be integrated into a future interoperable National Public Safety Broadband Network. The State of Oklahoma asks the Commission to act quickly on this request for waiver, as it is consistent with Commission's *Waiver Order*.² Grant of the waiver will enable rapid public safety broadband deployment in Band Class 14 in the 700 MHz band, while the network contemplated by the Commission remains years from deployment.

I. INTRODUCTION

Over the last few years, the Commission has taken significant steps to advance nationwide interoperable public safety broadband communications. Despite these efforts, Auction 73 did not result in a winning bidder for the Upper 700 MHz D Block license. Yet there is an urgent need to provide wireless broadband to our first responders. The State of Oklahoma stands ready to commit the resources to put this critical 700 MHz spectrum to use and deploy interoperable Long Term Evolution ("LTE") public safety broadband systems that could later be integrated into a nationwide public safety broadband solution, which is consistent with the *Waiver Order*.³ Thereby, allowing early deployments "to take advantage of the current and imminent development of 4G technology by commercial providers, which will provide the technological basis for deployment in the 700 MHz band beginning later this year."⁴

² See *Id.* at ¶ 68 (stating [H]owever, we expect the Bureau will be able to act on future waiver requests quickly and consistent with our decision here, . . .).

³ *Id.* at ¶ 40.

⁴ *Id.* at ¶ 10.

In the *Second Report & Order*, the Commission recognized the need to balance two important goals as it crafted the 700 MHz public safety broadband policy: (1) foster a public-private solution to develop nationwide interoperable public safety broadband communications; and (2) enable jurisdictions with available resources to deploy public safety broadband systems on an accelerated basis in some circumstances.⁵ As to the second goal, though the Commission granted the D Block licensee the “exclusive right” to build out the 700 MHz commercial/public safety broadband network (the “Shared Wireless Broadband Network”),⁶ it created two exceptions to this policy: (1) public safety entities were permitted to undertake an earlier build-out than would be provided for in the Network Sharing Agreement (“NSA”), with the public safety entities entitled to compensation up to the amount the D Block licensee would have incurred if had it constructed the network itself; and (2) public safety could build their own broadband networks in areas not included in the NSA.⁷ Thus, the current early deployment options are premised on D Block licensing and adoption of the NSA. With no D Block licensee and no NSA, and in any event with deployment years away, today there is no clear path for public safety entities in need of broadband solutions.

To that end, the Commission has recently clarified that jurisdictions may begin early deployments so long as they meet the technical requirements for 700 MHz public safety systems and a commitment is made to facilitate roaming and interoperability with the National Public Safety Broadband Network.⁸

⁵ *Service Rules for the 698-746, 747-762 and 777-792 MHz Bands*, Report and Order, 22 FCC Rcd 15289 (2007) (“*Second Report & Order*”).

⁶ *Id.* at ¶ 470.

⁷ *Id.* at ¶¶ 471-84.

⁸ *Waiver Order* at ¶ 10.

II. THE STATE OF OKLAHOMA NEEDS BETTER PUBLIC SAFETY BROADBAND COMMUNICATIONS AND IS PREPARED TO DEVOTE RESOURCES TO DEPLOY AN INTEROPERABLE NETWORK IN THE 700 MHZ BAND.

In the State of Oklahoma, there is a dire need for the broadband services that a newly-deployed 700 MHz public safety broadband system would supply:

- One of the most atrocious acts of terrorism inflicted on the United States was in Oklahoma City. First Responders from all of Oklahoma, the Nation and the World responded. The information that could have been provided by a statewide wireless broadband network would have been invaluable.
- The I-40 bridge collapse closed down one of the nations major traffic arteries. Responders from small rural jurisdictions and the Oklahoma Department of Transportation were the first on the scene. First Responder efforts were impaired by the lack of wireless and wired internet access at the rural location.
- State and Local Public Safety Departments and First Responders are forced to do without broadband wireless communications or fund prohibitively high recurring monthly charges for commercial wireless services. Because of the lack of the needed Public Safety oriented broadband wireless connectivity, police officers must return to their district stations to access routine criminal justice information. This information would be readily available to officers in the field if broadband data access was available.
- In the State of Oklahoma firefighters lack connectivity to wireless broadband service for all front line Fire Department Companies as these commercial services are too costly and coverage is limited. With a Public Safety Wireless Network, firefighters could access real-time full-motion video capabilities to provide situational information to other first responders, while en-route or at the scene, as well as to supporting Companies in response to an emergency.
- The State of Oklahoma is prone to natural disasters. First Responders from State and Local Agencies must respond to damage from tornados, flood and wild fires. The State of Oklahoma ranks 3rd in declared disasters by State with 65 FEMA declared disasters.
- With broadband wireless communications resources available to the First Responder in the State of Oklahoma:
 - Police officers would know quickly and silently that the vehicle they are stopping is stolen, know that the individual they are interviewing is wanted or dangerous, be able to conduct photo lineups of suspects while still at the crime scene, and be able to access web-enabled surveillance cameras in public facilities to gain intelligence critical to the safe resolution of blockaded or hostage incidents;

- Firefighters would know which routes were blocked due to construction or accidents, which hydrants are out of service, and what hazardous conditions exist as soon as the data is updated by Police, Water Departments and Building Inspectors;
- Medics would be able to stream patient's vitals and video of the patient to the Emergency Rooms, where the doctors would be able to better and more quickly diagnose and issue orders for treatment while the ambulance is en-route to the hospital; and
- Emergency Managers would be able to receive real-time data and video from incident sites, teleconference with the Incident Commanders, and quickly share critical information, and mobilize essential resources to ensure the swift and safe resolution of the emergency situation.

The State of Oklahoma is prepared to deploy a public safety broadband network in the 700 MHz band in the near-term future. Deployment of such a network in the State of Oklahoma will enhance day-to-day, task force and mutual aid response through support of a full spectrum of interoperable IP multi-media applications, including:

- Streaming video (surveillance, remote monitoring)
- Digital Imaging
- Automatic Vehicle Location
- Computer Aided Dispatching
- Email
- Mapping/GIS
- Remote Database Access
- Report Management System Access
- Text Messaging
- Telemetry/Remote Diagnostics
- Web Access

A broadband public safety network in the State of Oklahoma will support applications that currently cannot be supported over existing narrowband or wideband wireless data technologies. Tasks that require the consumption of substantial time to communicate between dispatchers and other officers on narrowband voice systems (*e.g.*, database lookups and dispatch messaging) could be off-loaded to broadband spectrum, significantly reducing narrowband

channel load. In addition, allowing police officers, for example, to have remote access to databases (*e.g.*, DMV, warrants, missing persons and stolen vehicle databases, etc.), remote form entry and reporting and web access will enhance public safety by increasing officer efficiency, reducing paperwork and allow officers to spend more of their time on patrol.

Broadband networks will allow mission-critical information to be exchanged in real-time, anytime, anywhere. Distribution of images (floor plans, mug shots, incident stills), videos (surveillance feeds, on-scene video), messaging, access to incident management databases provide a common operating picture and access to information from the field, enhancing both incident response and first responder safety. Finally, broadband networks will allow for the secure, easy and interoperable sharing of information (voice, video and multi-media data) among members of a task force.

To realize these benefits, however, we need the Commission's authorization to operate our own network until it can be integrated into the larger National Public Safety Broadband Network. We believe installation will proceed in phases beginning late 2010 and will be completed across the State by 2015. Thus, the public interest would be served if the Commission grants the waiver requested herein, we request that favorable action on this request be taken expeditiously.

III. THE REQUESTED WAIVER IS IN THE PUBLIC INTEREST AND SHOULD BE GRANTED.

The public interest will be served by allowing the State of Oklahoma to engage in early deployment. To obtain a waiver of the Commission's rules, a petitioner must demonstrate either that (1) the underlying purpose of the rule(s) would not be served or would be frustrated by application to the present case, and that a grant of the waiver would be in the public interest, or

(2) in view of unique or unusual factual circumstances of the instant case, application of the rule(s) would be inequitable, unduly burdensome, or contrary to the public interest, or the applicant has no reasonable alternative.⁹

Under either of these standards, the requested waiver allowing the State of Oklahoma to deploy a public safety broadband network in advance of the National Public Safety Broadband Network is justified.

A. Grant of the Waiver Will Enable the State of Oklahoma to Deploy an Interoperable Broadband Network to Serve First Responders.

The tragic events of September 11, 2001 and Hurricane Katrina made clear that public safety entities need more interoperable communications capabilities. The reality is that the deployment of a nationwide network from which local public safety entities can obtain broadband services is likely years away. The State of Oklahoma is willing to commit resources to bridge this gap so that its first responders can utilize broadband technology to protect life and property immediately.

While we wait for resolution of the Commission's proceeding, the public interest requires that authorities like the State of Oklahoma be allowed to deploy their own interoperable, broadband public safety communications networks, as was recently granted to the 21 jurisdictions in the *Waiver Order*. In these unique circumstances, waiver of the rules limiting such deployment to Band Class 14 of the 700 MHz Block will serve the public interest

⁹ 47 C.F.R. § 1.925(b)(3). Waiver applicants face a high hurdle and must plead with particularity the facts and circumstances that warrant a waiver. *WAIT Radio v. FCC*, 413 F.2d 1153, 1157 (D.C. Cir. 1969) (*WAIT Radio*), *aff'd*, 459 F.2d 1203 (1973), *cert. denied*, 409 U.S. 1027 (1972).

B. The Network Will Be Robust and Will Satisfy the Technical Specifications Proposed by the Commission in the *Waiver Order*.

LTE is a commercial open standard technology which is being deployed by commercial wireless operators in the commercial portions of the 700 MHz band today. The State of Oklahoma believes that the selection of LTE as the common air interface technology for use in the public safety 700 MHz band as being an essential first step towards achieving the goal of nationwide interoperability. The State of Oklahoma is planning deployment of a LTE network to support public safety operations. This LTE system will be deployed to operate on a paired assignment of 5 MHz wide channels in the public safety broadband block between 793-798 MHz for mobile transmission and 763-768 MHz for base station transmission. At a minimum, the equipment operating in the band will be compliant with Band Class 14 as specified in the 3GPP Release 8 standards.

Moreover, at a minimum, our LTE system deployed in the Public Safety Broadband Block will initially support the applications specified in the *Waiver Order*: (1) Internet access, (2) VPN access to any authorized site and to home networks, (3) a status or information “homepage,” (4) access to responders under the Incident Command System, and (5) field-based server applications.¹⁰ In addition, we agree with the Commission, public safety, equipment manufacturers and commercial wireless service providers that roaming must be a “fundamental requirement.”¹¹ Thus, we will support roaming to all 700 MHz Band Class 14 public safety operators and support roaming to all future regional, state, Tribal, public safety operators and all users on the network. Finally, we will adhere to the technical and operational criteria as stated

¹⁰ *Waiver Order* at ¶ 46.


¹¹ *Id.* at ¶45.

by the Public Safety Spectrum Trust and that of Emergency Response Interoperability Center establishes via Commission rules.¹²

IV. CONCLUSION

The Commission would significantly advance the cause of public safety by allowing the State of Oklahoma to deploy its own public safety broadband network in Band Class 14 that would operate until a National Public Safety Broadband Network is established in the 700 MHz band. The State of Oklahoma stands ready to begin deployment of life-saving broadband services, and respectfully requests that the Commission promptly allow it to begin by granting the waiver as requested herein.

Respectfully submitted,



Alex Z. Pettit
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State of Oklahoma

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¹² *Id.* at ¶ 36.